

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF OHIO

STEVEN B. BARGER, an individual,
Plaintiff,

Civil Case No. EDNY: 1:17-cv-04869-FB-LB

-v-

Civil Case No. 1:18-mc-00010

FIRST DATA CORPORATION, et al.,
Defendants,

-v-

JULIE K. KELLY, an individual,
Third Party Witness.

2018 JUL 27 PM 2:21
MC

RESPONSE TO MOTION TO COMPEL AND MOTION TO QUASH

My name is Julie Kelly. On July 23rd, 2018 I received in an email and courier the attached Motion to Compel my testimony in the case Barger v. First Data Corporation, et al.

I respectfully request that the Court quash the attached motion based on the fact that I attended the deposition as ordered, at the time and place that appears on the subpoena.

I am attaching , as exhibits, a copy of the documents I received on July 23rd of the Saul Ewing Arnstein & Lehr, LLP and First Data's Motion to Compel as Exhibit A, my correspondence with Mr. Eidelman, Ms. Cooper, Saul Ewing Arnstein & Lehr LLP, Jackson Lewis P.C., and the lawyer who was present when I appeared on June 25th, 2018 at 10:00 AM at the offices of Cook & Logothetis, LLC, 30 Garfield Place, Suite 540, Cincinnati, Ohio 45202, as Exhibit B , and a statement with further exhibits, from lead council for Plaintiff Barger, Shawn E. Shearer, as Exhibit C.

At no time have I refused to appear. I have been in constant contact with Saul Ewing since they failed to show for my deposition on June 25th, 2018 and they have never once sent me a new time or date. Please refer to Exhibit C, where Saul Ewing admits that I did indeed show up for the scheduled subpoena on time, at the correct location.

I complied with the subpoena that Mr. Eidelman and Saul Ewing presented to the Court. I cannot be compelled to do something I already did.

Please compel Saul Ewing and First Data to withdraw this motion, it is an illegitimate lie. There is no outstanding, valid subpoena commanding my testimony.

As proof of the fact that no such subpoena exists, please refer to Exhibit A, Saul Ewing and First Data's own statement that I complied with and fulfilled the conditions of the existing subpoena they attached to this motion. I cannot be forced to comply with a nonexistent subpoena.

I am requesting a hearing on this motion be set as soon as possible. I want to clear my name and have this lie about what I did removed from the Court's records.

Thank you for your consideration,

/s/ Julie K. Kelly

Julie K. Kelly
823 Dorgene Lane
Cincinnati, OH 45244

Pro Se, Third Party Witness

CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this **RESPONSE TO MOTION TO COMPEL AND MOTION TO QUASH: (1)** is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the **RESPONSE TO MOTION TO COMPEL AND MOTION TO QUASH** otherwise complies with the requirements of Rule 11.

July 27th, 2018

/s/ Julie K. Kelly

Pro Se

Julie K. Kelly

823 Dorgene Lane

Cincinnati, OH 45244

(P) 513.806.4893

(e) jul_kelly@mac.com

CERTIFICATE OF SERVICE

I hereby certify that on July 27th, 2018, a copy of the foregoing document was delivered to the Clerk of Court for filing in the Court's electronic filing system (CM/ECF), which will send electronic notification of such filing to all parties represented by attorneys who are registered CM/ECF users.

July 27th, 2018

/s/ Julie K. Kelly

Pro Se

Julie K. Kelly

823 Dorgene Lane

Cincinnati, OH 45244

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